

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development adopts amendments to Chapter 71, "Targeted Jobs Withholding Tax Credit Program," Iowa Administrative Code.

The IDED Board adopted previous amendments to the Targeted Jobs Withholding Tax Credit (TJWTC) Program on January 15, 2009. These amendments were to become effective on March 18, 2009. However, at its March 6, 2009, meeting, the Administrative Rules Review Committee (ARRC) voted to delay the effective date for 70 days until May 26, 2009, to allow the Department to work through the legislative process and any pending legislation that would impact TJWTC.

2009 Iowa Acts, Senate File 304, was passed during the 2009 legislative session and will become effective on July 1, 2009. 2009 Iowa Acts, Senate File 304, makes substantive changes to TJWTC.

IDED has determined that the most recent amendments should not apply to the program. However, the revisions in 2009 Iowa Acts, Senate File 304, do not become effective until July 1, 2009. There is a gap that the Department wants to correct between the effective date of the most recent amendments and the effective date of 2009 Iowa Acts, Senate File 304. This rule making adopts amendments that will govern the program from May 21, 2009, through June 30, 2009.

These amendments effectively undo the recent changes and restore the rules that existed before any revisions were proposed. The result is that the original program rules are in effect from May 21, 2009, through June 30, 2009. On July 1, 2009, 2009 Iowa Acts, Senate File 304, becomes effective, and the Adopted and Filed Emergency amendments that implement 2009 Iowa Acts, Senate File 304, published herein as **ARC 7848B**, also become effective on that date.

In compliance with Iowa Code section 17A.4(3), the Department finds that notice and public participation are impracticable and contrary to the public interest because the existing program rules are not consistent with new legislation that will become effective on July 1, 2009. These emergency amendments will apply to applications submitted on or after May 21, 2009, through June 30, 2009.

The Department finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of these amendments should be waived and the amendments be made effective on May 21, 2009, upon filing with the Administrative Rules Coordinator. The pilot project cities will be able to continue processing applications from eligible businesses through the end of this fiscal year. These amendments allow the pilot project cities to know what procedures they must follow now and until July 1, 2009, when 2009 Iowa Acts, Senate File 304, takes effect.

These amendments became effective on May 21, 2009.

These amendments are intended to implement Iowa Code section 403.19A as amended by 2009 Iowa Acts, Senate File 304.

The following amendments are adopted.

ITEM 1. Amend subrule 71.4(2) as follows:

71.4(2) *Entering into an agreement.* A pilot project city may enter into a withholding agreement with a business locating to the community from another state that is creating or retaining targeted jobs in an urban renewal area. The pilot project city may enter into a withholding agreement with a business currently located in Iowa only if the business is creating at least ten new jobs or making a qualifying investment of at least \$500,000 within the urban renewal area. ~~The total award amount of withholding tax credits cannot exceed the total amount of land and site preparation costs and capital investment of depreciable assets in the project.~~ A business shall not be obligated to enter into a withholding agreement with a pilot project city. A pilot project city shall not enter into a withholding agreement with a business after June 30, 2010.

ITEM 2. Amend subrule 71.4(7) as follows:

71.4(7) Local match requirement. A pilot project city entering into a withholding agreement shall arrange for a match of at least one dollar for each withholding dollar received by the city. The local match may come from the pilot project city, a private donor, or the employer or a combination of the three. Local matches may be in the form of cash or in-kind contributions to be used for the project. ~~Additionally, the pilot project city is required to provide local financial support to the project in one of the two following forms or their equivalent values:~~

- ~~a. — Tax abatement for the project, as provided under Iowa Code chapter 427B.~~
- ~~b. — Local participation in the form of a cash grant or in-kind grant that is equal to the value of tax abatement under Iowa Code chapter 427B, under the established five-year sliding scale, or 10 percent of the total award amount of withholding tax credits, whichever is less.~~

ITEM 3. Amend subrule 71.5(1) as follows:

71.5(1) Application for project approval.

- a. No change.
- b. Applications for project approval for the targeted jobs withholding tax credit program may be submitted at any time. The department will review applications for projects in as timely a manner as possible. ~~All applications will be presented to the IDED board for comment prior to the department's approval.~~ A pilot project city will be notified in writing of the department's decision regarding the project.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/17/09.